

AMENDED IN SENATE APRIL 22, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 434

Introduced by Senators Benoit and Huff
(Principal coauthor: Senator Padilla)
(Coauthors: Senators Florez and Leno)

February 26, 2009

An act to add Section 4576 to the Penal Code, relating to correctional facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 434, as amended, Benoit. Correctional facilities: wireless communication devices.

Existing law establishes various offenses relating to the unauthorized provision of specified items to persons confined in local and state correctional facilities.

This bill would provide, subject to exceptions, that any inmate or ward who possesses any cellular telephone or other wireless communication device or any person who possesses with the intent to deliver, or delivers, to an inmate or ward in the custody of the Department of Corrections and Rehabilitation, any cellular telephone or other wireless communication device is guilty of a misdemeanor, punishable by a fine not exceeding \$5,000. The bill would also provide that ~~persons if a person~~ visiting an inmate ~~are subject~~ *is found to be in possession of a cellular telephone or other wireless communication device when searched or subjected to search a metal detector*, as specified, ~~and that any cellular telephone or wireless communication device found as a result of the search would be confiscated shall be~~

subject to confiscation. The bill would require posted notices regarding those search and confiscation provisions, as specified.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4576 is added to the Penal Code, to read:
2 4576. (a) Except as otherwise authorized by law, or when
3 authorized by the person in charge of the prison or other institution
4 subject to this section; or by an officer of the institution empowered
5 to give that authorization, and except as provided in subdivision
6 (b), any inmate or ward who possesses any cellular telephone or
7 other wireless communication device or any person who possesses
8 with the intent to deliver, or delivers, to an inmate or ward in the
9 custody of the Department of Corrections and Rehabilitation; any
10 cellular telephone or other wireless communication device; is guilty
11 of a misdemeanor, punishable by a fine not to exceed five thousand
12 dollars (\$5,000).

13 (b) ~~When any~~ If a person visiting an inmate in the custody of
14 the Department of Corrections and Rehabilitation ~~who~~, upon being
15 searched or subjected to a metal detector, is found to be in
16 possession of a cellular telephone or other wireless communication
17 device, that device shall be subject to confiscation. Notice of this
18 provision shall be posted in all areas where visitors are searched
19 prior to visitation with an inmate in the custody of the Department
20 of Corrections and Rehabilitation.

21 SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

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